

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Robert M. Pickett, Chairman  
Kate Giard  
Mark K. Johnson  
Anthony A. Price  
Janis W. Wilson

In the Matter of the Investigation into a Change in )  
Its Credit Card Policy by CHUGACH ELECTRIC )  
ASSOCIATION, INC. )

U-08-105

ORDER NO. 1

**ORDER OPENING INVESTIGATION, REQUIRING CHUGACH TO DELAY  
IMPLEMENTATION OF ANY CHANGE TO THE EXISTING AUTOPAY BY  
CREDIT CARD PROGRAM, ADDRESSING TIMELINE FOR DECISION,  
REQUIRING FILINGS, SCHEDULING PREHEARING CONFERENCE,  
INVITING PARTICIPATION OF ATTORNEY GENERAL, DESIGNATING  
COMMISSION PANEL, AND APPOINTING ADMINISTRATIVE LAW JUDGE**

BY THE COMMISSION:

Summary

We open this docket to investigate issues relating to the decision of Chugach Electric Association, Inc. (Chugach) to discontinue its present credit card payment program and to consider the effect of this decision on Chugach's current established revenue requirement. We require Chugach to delay implementation of any change to its existing AutoPay by Credit Card program. We address the timeline for decision, require filings, and schedule a prehearing conference. The chairman invites participation by the Attorney General (AG), designates a commission panel and docket manager, and appoints an administrative law judge.

Background

We received informal complaints about Chugach's change to its AutoPay Credit Card program and opened Consumer Protection complaint files. We opened Consumer Protection File No. C-08-237 when we received a letter from S. Clark (Clark) complaining about Chugach outsourcing collections for payment by credit card.<sup>1</sup> J. Campbell noted his dissatisfaction with Chugach's decision to outsource its credit card collection for payments with associated outrageous "convenience" fees tacked on to the customer.<sup>2</sup> A. Ahn and J. Valenci complained about the transaction fee of \$3.50 for credit/debit card payment.<sup>3</sup> M. Hannigan alleges that Chugach has instituted a discriminatory charge against customers using credit card payments.<sup>4</sup> We recently received an informational filing from Chugach.<sup>5</sup>

Discussion

Clark provided a copy of a letter she received from Chugach.<sup>6</sup> In this letter, Chugach informed its customers that effective September 1, 2008, members who wish to pay using a credit card will have to pay through BillMatrix and will be charged a fee for each transaction. Chugach stated that it pays over \$800,000 per year to take credit card payments. Chugach asserted that these fees have previously been

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<sup>1</sup>Letter from S. Clark, filed June 16, 2008, in Consumer Protection File No. C-08-237 (Clark Letter).

<sup>2</sup>Electronic mail from J. Campbell, filed June 22, 2008, in Consumer Protection File No. C-08-249.

<sup>3</sup>Telephone call from A. Ahn, July 1, 2008, in Consumer Protection File No. C-08-262; telephone call from J. Valenci, August 6, 2008, in Consumer Protection File No. C-08-285.

<sup>4</sup>Electronic mail from M. Hannigan, filed July 9, 2008, in Consumer Protection File No. C-08-268.

<sup>5</sup>Letter from F.M. Freymiller, filed August 8, 2008 (Freymiller Letter).

<sup>6</sup>Clark Letter, citing letter from T. Kurka, dated June 9, 2008, filed June 16, 2008, in Consumer Protection File No. C-08-237 (Chugach Letter).

1 absorbed by all Chugach retail customers, not only those paying by credit card.  
2 Chugach further stated that in "a member survey last November, 57 percent of surveyed  
3 members felt that credit card users should pay a fee to cover card-related expenses and  
4 the board felt it was time for a change."<sup>7</sup>

5 In the Freymiller Letter, Chugach discussed the cessation of the AutoPay  
6 by Credit Card program in response to significant increases in credit card costs and for  
7 other reasons. Chugach noted efforts to communicate with its members and provided a  
8 copy of Amendment No. 1 to the Payment Processing Agreement between Chugach  
9 and the processing service provider. Also attached to the Freymiller Letter was a letter  
10 previously submitted to our Consumer Protection section that noted Chugach's intention  
11 to make a tariff advice filing which will propose revised language revision within the  
12 Chugach tariff and will provide a copy of the updated billing form.<sup>8</sup>

13 Docket of Investigation

14 We have authority to investigate this matter under AS 42.05.391. We  
15 determine that inquiry into (1) whether the charges are discriminatory, (2) whether the  
16 program and attendant charges are reasonable, and (3) whether there is any adverse  
17 effect in rates in light of the established revenue requirement is warranted. We have not  
18 received any tariff advice filing from Chugach with these proposed changes to its tariff.  
19 In the absence of a tariff advice filing which would provide Chugach an opportunity to  
20 submit evidence in support of its proposed change in policy and the past practice of  
21 accepting credit card payments, we open this docket to investigate issues raised by the  
22 consumer complaints filed in various Consumer Protection files. We incorporate all  
23 records from Consumer Protection File Nos. C-08-237, C-08-249, C-08-262, C-08-268,

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25 <sup>7</sup>Chugach Letter.

26 <sup>8</sup>Freymiller Letter.

1 and C-08-285 into this proceeding. While we are engaged in evaluating Chugach's new  
2 credit card processing program, we require Chugach to defer implementing any change  
3 to its existing AutoPay by Credit Card program and to explain to customers that no  
4 changes will be implemented until further order of the commission.

5 Decision Timeline

6 We are required by AS 42.05.175(d) to issue a final decision regarding a  
7 formal investigation of a utility not later than 365 days after the date of this order.  
8 Therefore, the commission will issue a final order in this proceeding no later than  
9 August 28, 2009.

10 Notice to Customers and Required Filings

11 We require that Chugach provide notice to each of its customers that we  
12 have opened this docket of investigation and to report to us it that notified them. The  
13 customer notice may be mailed with the next regular billing.

14 We require Chugach to file documentation of the expenses it has incurred  
15 on an annual basis since 2004 in connection with its AutoPay by Credit Card program.  
16 We also require Chugach to explain how its recently approved revenue requirement will  
17 be affected by the change it is implementing in its AutoPay by Credit Card program and  
18 whether the cost of processing credit cards was included in costs comprising the  
19 recently approved revenue requirement.

20 Prehearing Conference

21 It is necessary to establish a procedural schedule to govern the conduct of  
22 this docket. To allow us to consider the concerns and ideas of all the participants on  
23 scheduling and other docket matters, the administrative law judge will hold a prehearing  
24 conference<sup>9</sup> at 9 a.m., September 12, 2008, in the East Hearing Room.

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25 <sup>9</sup>3 AAC 48.140.  
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1 AG Participation

2           The chairman believes that participation by the AG in this proceeding will  
3 be in the public interest<sup>10</sup> as this proceeding stems from informal complaints. The AG's  
4 participation will enhance the development of the record and ensure that the interests of  
5 the public are properly represented. The chairman, therefore, invites the AG to  
6 participate as a party in this docket.

7 Commission Panel

8           The chairman designates Commissioners Kate Giard, Janis W. Wilson,  
9 and himself, as the commission panel<sup>11</sup> and further designates Commissioner  
10 Kate Giard as the commission docket manager.

11 Administrative Law Judge

12           Under AS 42.04.070(b), the chairman appoints Administrative Law Judge  
13 T.W. Patch to facilitate conduct of the docket. The administrative law judge will issue  
14 procedural orders in this docket including discovery orders, unless the commission  
15 docket manager determines that a particular procedural order should be issued by the  
16 commission panel.<sup>12</sup> Orders issued by the administrative law judge will be considered  
17 orders of the commission for purposes of petitions for reconsideration under  
18 AS 42.05.171.<sup>13</sup>

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20 <sup>10</sup>AS 42.04.070(c).

21 <sup>11</sup>Under 42.04.080(a), the chairman designates a commission panel to hear, or, if  
22 a hearing is not required, to otherwise consider and decide docketed matter.

23 <sup>12</sup>The commission docket manager, after consultation with other members of the  
24 panel, may delegate to the administrative law judge whatever authority to issue  
25 procedural orders he or she considers necessary or advisable in this docket.

26 <sup>13</sup>AS 42.05.171 states, in pertinent part:

A party may file a petition for reconsideration of, or an administrative appeal  
of, a decision by a hearing examiner, an arbitrator, a mediator, or an  
administrative law judge that has been approved by the commission, or a  
decision of a hearing panel.

**ORDER**

THE COMMISSION FURTHER ORDERS:

1. Docket U-08-105 is opened to investigate the cessation of the AutoPay by Credit Card program of Chugach Electric Association, Inc. and the proposed implementation of a new pay by credit card program.

2. Chugach Electric Association, Inc. shall defer implementation of any change to its existing AutoPay by Credit Card program.

3. By September 29, 2008, Chugach Electric Association, Inc. will mail or hand deliver to each of its customers notice that we have opened this docket of investigation.

4. By 4 p.m., October 13, 2008, Chugach Electric Association, Inc. shall provide the following:

a. notice to us that it has notified its customers of the commencement of this proceeding;

b. documentation of the expenses it has incurred on an annual basis since 2004 in connection with its AutoPay by Credit Card program; and

c. a detailed explanation how its revenue requirement will be affected by the proposed change in its AutoPay by Credit Card program.

1           5. A prehearing conference<sup>14</sup> is scheduled to convene at 9 a.m. on  
2 September 12, 2008, in the East Hearing Room of the Regulatory Commission of  
3 Alaska, 701 W. Eighth Avenue, Suite 300, Anchorage, Alaska.

4           6. Commissioners Kate Giard, Robert M. Pickett, and Janis W. Wilson  
5 are designated as the commission panel.

6           7. Commissioner Giard is designated as the commission docket  
7 manager.

8           8. T.W. Patch is appointed as administrative law judge in this proceeding.

9 DATED AND EFFECTIVE at Anchorage, Alaska, this 29th day of August, 2008.

10                   BY DIRECTION OF THE COMMISSION  
11                   (Commissioners Mark K. Johnson and Anthony A. Price,  
                          not participating.)



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21           <sup>14</sup>If you are a person with a disability who may need a special accommodation,  
22 auxiliary aid or service, or alternative communication format in order to participate in the  
23 scheduled event, please contact Joyce McGowan at 1-907-276-6222, toll free at  
24 1-800-390-2782, or TTY at 1-907-276-4533, or via electronic mail to  
25 rca.mail@alaska.gov at least three business days before the scheduled event to make  
26 the necessary arrangements.

Any party wishing to appear telephonically must advise us, in writing before at  
the scheduled event to make the necessary arrangements and provide a telephone  
number where it may be reached for that appearance.